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UNITED STATES DISTRICT COURT IN CLERK'S OFFICE  
DISTRICT OF MASSACHUSETTS  
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DONALD C. HUTCHINS	)	U.S. DISTRICT COURT DISTRICT OF MASS.
Plaintiff	)	Civil Action: 04-30126-MAP
v.	)	
CARDIAC SCIENCE, INC	)	
and	)	
COMPLIENT CORPORATION.	)	
Defendants	)	

**PLAINTIFF'S MEMORANDUM IN ANSWER TO COMPLIENT CORPORATIONS  
INSTANTER REPLY BRIEF IN SUPPORT OF MOTION TO DISMISS AND  
PLAINTIFF'S AFFIDAVIT TO SUPPORT PERFECTED SERVICE OF PROCESS**

**I. INTRODUCTION**

On March 3, 2005 Attorney John J. Egan filed Defendant, Compliant Corporation's Motion for Leave to File *Instanter* Reply Brief in Support of Motion to Dismiss Amended Complaint for Failure of Service of Process, along with Compliant Corporations Reply Brief in Support of Motion to Dismiss Amended Complaint for Failure of Service of Process.

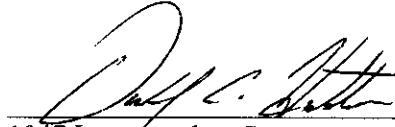
With this *Instanter* Reply Brief Attorney Egan challenges the facts contained in Plaintiff's, Donald C. Hutchins ("Hutchins") Memorandum in Opposition to Compliant's Motion to Dismiss. The sworn testimony contained the attached Affidavit attached herein as Exhibit A, avers the truths contained in Hutchins' Memorandum in Opposition to Compliant's Motion to Dismiss. The Affidavit also asserts that once Steven Lindseth revealed to the Plaintiff his identity as the President of Compliant, that the Service of Process was perfected in compliance with the process procedures practiced in the Northern District of Ohio.

**CONCLUSION**

The Plaintiff's prays that the sworn testimony contained in the Affidavit of Donald C. Hutchins be accepted by the Court and that the Defendant's Motion to Dismiss be stricken.

The Plaintiff  
Donald C. Hutchins, Pro Se

Dated March 29, 2005

  
1047 Longmeadow Street  
Longmeadow, Massachusetts 01106  
(413) 567-0606

**CERTIFICATE OF SERVICE**

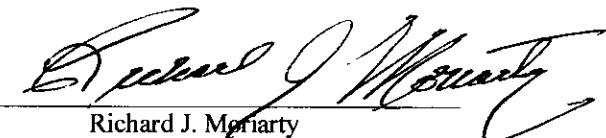
I, Richard J. Moriarty, 43 Greenacre Avenue, Longmeadow, Massachusetts 01106, hereby certify that I served a copy of the foregoing on the appropriate parties by sending a copy by registered mail to:

Randall T. Skaar, Esq., Patterson, Thuente, Skaar & Christensen, P.A., 4800 IDS Center, 80 South Eighth St., Minneapolis, MN 55402.

Paul T. Rothschild, Esq., Bacon & Wilson P.C., 33 State Street, Springfield, MA 01103.

John J. Egan, Esq., Egan, Flanagan and Cohen, P.C., 67 Market Street, P.O. Box 9035, Springfield, Massachusetts 01101-9035

Dated: 3/29/05

  
Richard J. Moriarty

## **EXHIBIT A**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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DONALD C. HUTCHINS	)	
	)	
Plaintiff	)	<b>AFFIDAVIT OF</b>
v.	)	<b><u>DONALD C. HUTCHINS</u></b>
CARDIAC SCIENCE, INC.	)	
	)	
Defendant	)	
	)	

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NOW COMES DONALD C. HUTCHINS and upon being duly sworn, states that:

1. I am over 18 years of age and have personal knowledge of the matters attested to herein.
2. Compliant Corporation's Motion to Dismiss Amended Complaint for Failure of Service of Process along with its Memorandum in Support of Defendant, Compliant Corporation's Motion to Dismiss were served on me February 3, 2005.
3. Exhibit B of Compliant's Memorandum was the Affidavit of Steven Lindseth.

Mr. Lindseth's Affidavit asserted that:

**"I am the President of Compliant Corporation ("Compliant"), a defendant in the subject action. On October 21, 2003, substantially all the assets of Compliant were sold to an entity known as Cardiac Science, Inc. by and through an Asset Purchase Agreement entered into on that date (the "Asset Purchase Agreement") by and among Compliant, Cardiac Science and CPR Limited Partnership (CPR L.P."). In my capacity as President of Compliant, I oversee the winding up and liquidation of Compliant."**

4. Alerted to the testimony that Mr. Steven Lindseth had now declared himself President of Compliant which heretofore was not part of the public record, I served the

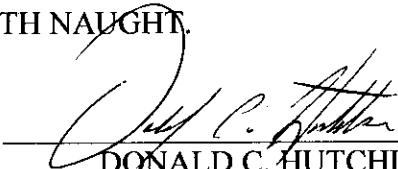
Amended Complaint upon Mr. Lindseth at the address of Axentis LLC., the location where the records of the Compliant Corporation are currently being maintained. See Exhibit B, attached to the Memorandum.

5. A returned receipt signed by JaNette M. Barnett for the certified mail that contained this Amended Complaint is attached to the Memorandum as Exhibit C. This returned receipt stands as proof of perfected service under the procedures prescribed by the Northern District of Ohio.

6. I continue to assert all the facts presented in my Memorandum in Opposition to Compliant's Motion to Dismiss Amended Complaint for Failure of Service of Process. I reiterate that just prior to the time my Opposition was filed that the public record of State of Delaware showed the Compliant Corporation as active, the tax status as delinquent, the Registered Agent as the Corporation Service Company, and the only officers as Mr. Robert Thompson and Mr. Brian Collet.

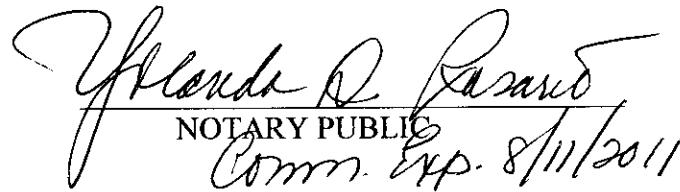
7. Less than three months ago and only after I filed to bring Compliant into this action, on December 28, 2004, did Compliant file dissolution papers with the State of Delaware as shown in Exhibit D, attached to the Memorandum.

FURTHER AFFIANT SAYETH NAUGHT.



DONALD C. HUTCHINS

Sworn to before me and subscribed in my presence the 29<sup>th</sup> day of March, 2005



Yolanda R. Rasario  
NOTARY PUBLIC  
Comm. Exp. 8/11/2011

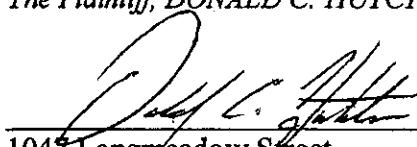
## **EXHIBIT B**

(i) The infringements, fraud, misappropriation, abuse of process and breach of contract were willful on the part of the Defendants, Cardiac Science Inc. and the Compliant Corporation and continued after notification by Hutchins. That the Defendants contemptuously infringed on Hutchins' intellectual properties with the mistaken belief that Hutchins, as "the little guy," could not afford the legal costs to protect these properties through the federal court system. On any and all Counts that a judgment be entered against the Defendant to increase damages up to three times the damages assessed in accordance Title 35 United States Code, Section 285.

95.) Demand for Trial by Jury.

*The Plaintiff, DONALD C. HUTCHINS, Pro Se*

Dated: 3/15/05

  
1047 Longmeadow Street  
Longmeadow, Massachusetts 01106  
(413) 734-2625  
(413) 739-4060 (facsimile)

CERTIFICATE OF SERVICE

I, Richard J. Moriarty, 43 Greenacre Avenue, Longmeadow, Massachusetts 01106, hereby certify that I served copies of the foregoing on the appropriate parties by sending copies by registered mail to the following parties:

Randall T. Skaar, Esq., Patterson, Thuente, Skaar & Christensen, P.A., 4800 IDS Center, 80 South Eighth St., Minneapolis, MN 55402.

Paul T. Rothschild, Esq., Bacon & Wilson P.C., 33 State Street, Springfield, MA 01103.

John J. Egan, Esq., Egan, Flanagan and Cohen, P.C., 67 Market Street, P.O. Box 9035, Springfield, Massachusetts 01101-9035

Mr. Steven Lindseth, Axentis LLC, 4670 Richmond Rd. Warrensville, Heights, Ohio 44128.

Dated: 3/15/05

  
Richard J. Moriarty

## **EXHIBIT C**

UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

- **Sender:** Please print your name, address, and ZIP+4 in this box •

DONALD C. HUTCHINS  
1047 LONGMEADOW STREET  
LONGMEADOW, MA 01106

13

2003 3170 0001 1958 1080

PS Form 3811, February 2004

**Domestic Return Receipt**

102595-02-N-1540

## **EXHIBIT D**

**Entity Details**

File Number:	<b>2820926</b>	Incorporation Date / Formation Date:	<b>11/13/1997</b> (mm/dd/yyyy)
Entity Name:	<b>COMPLIENT CORPORATION</b>		
Entity Kind:	<b>CORPORATION</b>	Entity Type:	<b>GENERAL</b>
Residency:	<b>DOMESTIC</b>	State:	<b>DE</b>
Status:	<b>DISSOLVED</b>		

**TAX INFORMATION**

Last Annual Report Filed:	2004		
Annual Tax Assessment:	\$ 2,500.00	Tax Due:	\$ 0.00
Tax Status:	CURRENT	Total Authorized Shares:	175,000,000

**REGISTERED AGENT INFORMATION**

Name:	<b>CORPORATION SERVICE COMPANY</b>		
Address:	<b>2711 CENTERVILLE ROAD SUITE 400</b>		
City:	<b>WILMINGTON</b>	County:	<b>NEW CASTLE</b>
State:	<b>DE</b>	Postal Code:	<b>19808</b>
Phone:	<b>(302)636-5401</b>		

**FILING HISTORY (Last 5 Filings)**

Seq	Document Code	Description	No. of pages	Filing Date (mm/dd/yyyy)	Filing Time	Effective Date (mm/dd/yyyy)
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